



September 5, 2013

Regional Forester, Objection Reviewing Officer  
USDA Forest Service  
Attn: 1570 Appeals and Objections  
P.O. Box 3623  
Portland, Oregon 97208

Via e-mail: [objections-pnw-regional-office@fs.fed.us](mailto:objections-pnw-regional-office@fs.fed.us).

RE: West Bend Vegetation Management Project Objection

Pursuant to 36 C.F.R. Part 218, the American Forest Resource Council and Interfor U.S. Inc., Gilchrist Division, file this objection to the proposed decision for the West Bend Vegetation Management Project. Deschutes National Forest Supervisor John Allen is the responsible official. The West Bend project occurs on the Bend-Fort Rock Ranger District.

**Objectors**

American Forest Resource Council (Lead objector)  
5100 SW Macadam, Suite 350  
Portland, Oregon 97239  
(503) 222-9505

The authorized representative of AFRC who you may contact regarding this objection is Irene Jerome (541) 575-2210.

Interfor U.S. Inc.  
Gilchrist Division  
PO Box 638  
Gilchrist OR 97737

The authorized representative of Interfor who you may contact regarding this objection is Chuck Burley. (541) 433-3396

5100 S.W. Macadam Avenue, Suite 350  
Portland, Oregon 97239  
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### **Reasons for the Objection**

The content of this objection below is based upon the prior specific written comments submitted by AFRC and Interfor in response to the draft EIS which are hereby incorporated by reference.

**1. The Forest Service has violated the National Forest Management Act and NEPA by Applying the Van Pelt Guidelines to Determine Which Trees to Leave During Harvest Activities When These Guidelines are not Part of the Deschutes Land and Resource Management Plan (LRMP).**

We object to the use of the Van Pelt guidelines which unlike the screens were not adopted through a forest plan amendment. Applying Van Pelt is particularly inappropriate in stands that are second growth. Further, the Van Pelt guidelines were written for stands in eastern Washington and there is no scientific support to apply Van Pelt to stands in central Oregon. The Van Pelt guidelines are not part of the Deschutes LRMP. Even though objectors dislike the eastside screens, the screens went through the NEPA process and were incorporated into the LRMP via a forest plan amendment as required by NFMA.

The Van Pelt guidelines have not been adopted through the NEPA environmental analysis, public comment process, or a plan amendment and were added to the Draft EIS via an Errata sheet.

The Van Pelt “guidelines” are very much a forest plan standard as are the eastside “screens.” The Forest Service’s decision to retain all “old-character trees” through use of the Van Pelt guidelines amounts to a significant forest plan amendment. Nothing in the Deschutes Forest Plan requires retention of all “old-character trees.” Certainly not in the Matrix, general forest, or deer habitat. The Ninth Circuit recently held that the Forest Service and BLM had to go through the public comment and the plan amendment process if it wanted to change the survey and manage “mitigation measure” of the Northwest Forest Plan. *Conservation Northwest v. Sherman*. The D.C. District Court also recently held that the agency process to define where spotted owls supposedly occur through the “owl evaluation methodology” (OEM) had a significant effect on the ability to manage the forest. Therefore, the OEM process needed to be adopted through public comment and rulemaking procedures. Simply pulling the Van Pelt guidelines out of the hat through an errata sheet and deciding to prohibit removal of all “old-character trees” violates NFMA and NEPA, especially where the Northwest Forest Plan Deschutes land allocations do not require retention of all trees with “old-character.”

**2. The Forest Service Interpretation of Late Old Structure Stands to Include Second Growth Black Bark Stands is Arbitrary and Capricious.**

We object to the designation of second growth stands in the project area as “Late and Old Structure” or LOS as it is referred to in Forest Service and eastside screens parlance. The forests are neither “late” or “old.” Even the Forest Service concedes the application of the LOS definition to second growth stands is arbitrary and makes little sense. The FEIS in response to comments concedes that “the Screens direction, unfortunately, uses the term late and old

structure (LOS) when discussing large tree structure.” FEIS 650. This is not a function of the screens but rather a function of the Forest Service's misinterpretation of the screens which were never intended to apply to second growth stands. The decision to classify healthy second growth stands as "LOS" is directly contrary to the eastside screens. The Regional Forester in adopting the revised definitions in amendment 2 to the screens explained that the two new LOS stages “will be comprised of timber stands previously classed as late and old.” Eastside Screens Amendment 2 at p. 4. Late and Old are defined in the screens as decadent stands with declining overstory vigor and stem decay and top breakage. Eastside Screens Amendment 2 at p. 3 n.2. This does not describe the West Bend stands and their classification as LOS is inconsistent with the eastside screens themselves.

To the extent that this is a reasonable interpretation of the eastside screens, it just points out how illegal the screens are in the significant impact they currently have. We do not believe the screens should continue to be applied since they are a significant amendment to the plans but were adopted as an insignificant amendment on the grounds that they would only be temporary.

There is nothing “late” referring to late successional conditions, or “old” about 70 to 80 year old stands. The EIS goes to great lengths to justify and defend the LOS designation by citing the “greater than thirteen trees per acre” over 21 inches at dbh criterion. FEIS 478-79. The size of these trees is due to the excellent growth site in the West Bend area and has absolutely **nothing** to do with LOS as it was intended. Labeling the stands in West Bend as LOS is misleading and has the potential to set a precedent for the future management of the thousands of acres of black bark pine stands in central Oregon and other areas in the region. Further, it totally defies the intent of the eastside screens. We do not support the screens or their arbitrary diameter limits, we certainly cannot condone an ad hoc modification of the screens to apply to second growth stands without a forest plan amendment.

The EIS indicates that “mid-seral species are greatly over represented” in the project area. There are no old growth areas mapped or old growth allocations in the Deschutes Forest Plan within the West Bend project boundary. In the R6 Interim Old Growth Definitions (Hopkins, Simon, et.al. 1992) there is a table under ponderosa pine that defines required minimums for late seral or “old growth.”<sup>1</sup> Those minimums are diameters  $\geq 21$  inches at breast height and at least 13 trees per acres and an age of at least 150 years. The district planning forester said the 13 trees per acre over 21” came from the interim eastside old growth definitions. The FEIS states “All treated areas would remain in an LOS condition because all trees  $>21$ ” dbh would be retained.” FEIS 479. The FEIS also states in the footnote that stands are LOS if they contain “more than 13 large trees per acre.” FEIS 478. The district silviculturist said on a field trip last year that the stands were LOS because they had 13 or more trees per acre that were over 21” dbh. Picking and choosing parts of a definition to define LOS based on the size and number of trees while ignoring that the “Late and Old Successional” stands are only about 60 to 80 years old is arbitrary. Even the Northwest Forest Plan makes clear that stands less than 80 years old are not “late successional” forests.

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<sup>1</sup> The PNW interim definitions were not subject to NEPA and are not incorporated into the Deschutes Forest Plan.

Although the eastside screens do not dictate tree age or minimum number of trees per acre, they do require that all trees  $\geq 21$  inches at dbh be left regardless of whether the other parameters are met. It is arbitrary to designate the stands in the West Bend area as LOS, by selecting the parameter of 13 trees per acre from the table while ignoring the minimum age of 150 years, when all trees 21 inches and larger at dbh must be left. The LOS label for these second growth stands on West Bend will prevent the Forest Service from “converting unmanaged stands to managed stands” under MA 8 of the forest plan. These stands can be much more easily managed toward HRV by NOT designating them as LOS. The arbitrary per acre tree retention and diameter limits undermine fuel reduction objectives. As a recent study of the effectiveness of fuel treatments by northern Arizona University found, “Many treatments may already be suboptimized in an ecological and hazardous fuel sense when socio-political influences such as diameter caps lead to the retention of excess trees (Abella 2006).” Ecological Restoration Institute 2013. The efficacy of hazardous fuel treatments: A rapid assessment of the economic and ecologic consequences of alternative hazardous fuel treatments at p. 10.

The misapplication of LOS is a serious problem. First, the forest staff should not be making up or inappropriately using definitions without a plan amendment. To take part of the definition of old growth (13 tpa  $>21$ ”) and use it to define LOS is inappropriate.

Second, these stands are essentially second-growth, black bark plantations. Just because they are good sites and these relatively young trees have achieved diameters near or exceeding 21”, that does not make a stand old growth nor does it make it LOS. So when the screens say “large trees are common” an infrequent scattered legacy tree does not make the stand LOS.

Third, if these stands are designated LOS, then all future black bark, second-growth stands will be LOS. The West Bend project interpretation of the screens requires greater analysis and justification to do anything in LOS (no net loss if below HRV). It simply makes no sense to take a stand that most agree needs treatment and is a second growth stand, designate it as LOS, and then have to adopt a forest plan amendment whenever these second growth stands need thinning and create additional analysis and limitations on what can actually be done by designating it as LOS.

#### **Request for Resolution Meeting**

Pursuant to 36 C.F.R. § 218.11, the objectors request to meet with the reviewing officer to discuss the issues raised in this objection and potential resolution.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Partin", with a stylized, flowing script.

Tom Partin